

Appl. No. 09/404,729  
Reply to Office action of July 19, 2005

### **REMARKS**

The Office Action mailed July 19, 2005 has been carefully considered. Reconsideration of this application in view of the following remarks is respectfully requested.

#### **The Claims**

After entry of this amendment, claims 1 – 9 and 11 – 15, including independent claims 1, 4, 7 and 13, are pending in this application. Claim 10 has been canceled in this amendment and claims 14 and 15 have been added. Claims 1, 4 and 7 have been amended to clarify that an actuator controller is responsive to an electrical signal representative of price information. Support for this amendment may be found in the application specification at, for example, pages 5 and 25. Claim 1 has been further amended to provide that the price information is dependent on the applied force produced by each actuator on the structure, and the marketwire is connected to each actuator controller to convey the price information to the actuator controllers without requiring any one of the actuators to communicate directly with any other one of the actuators. Support for these amendments may also be found in the application specification at, for example, pages 5 and 25.

Claims 4 and 7 have been further amended to provide that the sensor produces an input measurement, and that the marketwire is connected to each actuator controller and to the sensor. Claims 4 and 7 also now provide that the price information is dependent on the applied force produced by each actuator on the structure and on the input measurement produced by the sensor, and that the marketwire conveys the price information to the actuator controllers and the sensor. Claim 7 is further amended to provide that the marketwire conveys the price information to the actuator controllers and the sensor without requiring any one of the actuators to communicate directly with the sensor. Support for these amendments may be found in the application specification at, for example, pages 3 – 5 and at page 25.

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Claim 14 has been added as a dependent claim depending from claim 1. Support for this newly added claim may be found in the specification at, for example, page 5. Claim 15 has been added as a dependent claim depending from claim 4. Support for this newly added claim may be found in the specification at, for example, pages 3, 5, 12 – 13 and 25.

#### **Information Disclosure Statement**

Applicants have filed an Information Disclosure Statement accompanying this reply citing U.S. Patent 6,915,267 issued to Jackson et al. in July 2005. This patent issued from an application having subject matter related to the subject application. The IDS also includes a patent issued to Guenther cited in the '267 patent.

#### **35 USC § 102 Rejection**

In the Office Action, Claims 1 - 13 were rejected, in paragraph 4, under 35 U.S.C. § 102 as being anticipated by Abelow (US 5,999,908). Applicants respectfully traverse this rejection because the Office Action fails to state a *prima facie* case of anticipation under 35 U.S.C. § 102.

Applicants respectfully disagree with the Examiner's interpretation of the teachings of the Abelow reference. Applicant believes that the Office Action makes factual errors in citing certain portions of the Abelow reference, which are detailed in the earlier Replies, as teaching specific elements of the independent claims. Moreover, Applicants respectfully assert that the Office Action fails to state a *prima facie* case of anticipation under 35 U.S.C. § 102 because the Office Action fails to show where each one of the elements in independent claims 1, 4, 7 and 13 is taught in Abelow, and how those elements, if taught, are arranged in the same manner as in the independent claims, as required for a proper rejection under 35 U.S.C. § 102. Rather, the rejection set forth in the Office Action is based on overly broad interpretations of the claim language in the independent claims (such as, for example, the interpretation of "actuators," "sensor," "price

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information" and "applied force") and on finding in the Abelow reference some mention of individual words that occur in the independent claims without regard to how the passages cited in Abelow for mentioning these words are related into a coherent teaching.

1. The Abelow reference fails to teach the features added by amendment in this Reply of the independent claims.

Applicants believe that the additional features added by amendment in this Reply are not taught or disclosed in the Abelow reference. The additional element in independent claim 1 requires that the marketwire element be connected to each actuator controller to convey the price information to the actuator controllers without requiring any one of the actuators to communicate directly with any other one of the actuators. The Office Action states, at pages 2, 3 and 4, that Abelow teaches multiple actuators at col. 2, lines 13 – 27, where multiple actuators are interpreted to be computer hardware, software and communications technologies to construct a module that is built into certain products and services to establish a network of internal organization interactions in the area of computer based performance.

If one assumes for the sake of argument that the "multiple actuators" are taught by computer hardware, software and communications technologies to establish a network, then it follows that Abelow cannot teach this additional element, because the computer hardware, software and communications communicate or interact with each other, while the element in independent claim 1 describes the marketwire as conveying the price information to the actuator controllers without requiring any one of the actuators to communicate directly with any other one of the actuators.

With respect to independent claim 4, the additional features added to the claim include the sensor input measurement as part of the price information. Specifically, the marketwire is connected to each actuator controller and to the sensor; the price information is represented on the marketwire by analog fluctuations in an electrical characteristic of the marketwire and is dependent on

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the applied force produced by each actuator on the structure and on the input measurement produced by the sensor, and the marketwire conveys the price information to the actuator controllers and the sensor. The Office Action states, at page 3, that Abelow teaches an electrical conductor for transmitting voltage and accumulating charge, referred to as a marketwire, at col. 71, lines 61 – 65 which teaches "specialized feedback systems from customers and markets enabling them to 'talk back' to products." The Office Action further cites the passage at col. 1, lines 56 – 67 to col. 2, lines 1 – 5 as teaching a sensor, interpreted as being "productivity measures."

Claim 4 describes the price information as being represented on the marketwire by analog fluctuations in an electrical characteristic of the marketwire and as being dependent on the applied force produced by each actuator on the structure and on the input measurement produced by the sensor. Using the interpretations provided in the Office Action, the Office Actions suggests that Abelow teaches that "the price information is represented by analog fluctuations in an electrical characteristic of the specialized feedback systems and is dependent on the applied force produced by each computer hardware, software and communications technologies to construct a module that is built into certain products and services to establish a network of internal organization interactions, and is dependent on the input measurement produced by the productivity measures."

However, the Office Action, at page 4, cites to col. 28, lines 38 – 46 and to the transactions illustrated in Figure 31 as teaching "price information." Applicants respectfully submit that there is a contradiction in this teaching, since, even if the interaction shown in Figure 31 is a "specialized feedback system" there is no teaching that the "specialized feedback system" is connected to the "productivity measures" nor that the price information is dependent on the input measurement from the "productivity measures."

With respect to claim 7, the additional features added to the claim also include the sensor input measurement as part of the price information.

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Specifically, the marketwire is connected to each actuator controller and to the sensor. Further, the price information is represented on the marketwire by analog fluctuations in an electrical characteristic of the marketwire and is dependent on the applied force produced by each actuator on the structure to counter the movement of the structure and on the input measurement produced by the sensor. The marketwire conveys the price information to the actuator controllers and the sensor without requiring any one of the actuators to communicate directly with the sensor. Thus, both arguments discussed above with respect to amended claims 1 and 4 apply to the features in claim 7.

The Office Action provides additional citations to the Abelow disclosure as teaching the claim element of "applying a force" in claim 1 at col. 31, lines 24 – 39, where "identify common strengths, weakness and customer-based suggestion for improvements are forces or structure applied by the actuator for product features." Applicants respectfully reject this interpretation as plausible. During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." Nothing in the specification suggests that this is a reasonable interpretation of the term "force." Moreover, the Office Action fails to provide teachings in Abelow for the claim element in claim 4 of multiple actuators, each of the multiple actuators having an actuator controller that is responsive to an electrical signal representative of price information to control an applied force produced by the actuator to collectively promote movement of a structure from a first position to a second position, or for the claim element in claim 7 of multiple actuators, each of the multiple actuators having an actuator controller that is responsive to an electrical signal representative of price information to control an applied force produced by the actuator to collectively counter movement of a structure from a first position to a second position. The Office Action fails to state how "common strengths, weakness and customer-based suggestion for improvements" promote movement, or counter movement, of structure from a first position to a second position.

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2. No prima facie case of anticipation has been presented for any of the dependent claims.

The Office Action does not state a *prima facie* case of anticipation under 35 U.S.C. § 102 with respect to claim 13. Independent claim 13 uses some different language than claims 1, 4, and 7, and Applicants do not accept that it has the same claim scope as any one of the other independent claims. The Office Action is silent as to where the Abelow disclosure teaches or suggests the limitations of claim 13.

3. The rebuttal arguments presented in the August 2003 and December 2003 Replies are incorporated by reference herein.

Applicants have provided detailed arguments in rebuttal to this same rejection in the Replies presented in this application in August and December 2003. Those arguments are incorporated by reference and the Examiner is directed to those Replies for the substance of those arguments. Applicants disagree with the interpretation of the claim elements of the independent claims as applied to the Abelow disclosure. Applicants still believe and maintain, as noted in the Reply submitted in December 2003, that the Office Action does not state a *prima facie* case of anticipation under 35 U.S.C. § 102 because the alleged invention taught in the Abelow reference does not teach all of the claim limitations of the independent claims. The burden of establishing the *prima facie* case is on the Examiner, not the Applicants. While the Examiner may interpret the claims broadly for purposes of examination, that broad interpretation may not read out express limitations in applicants' claims.

The list of claim elements that Applicants believe Abelow does not teach is provided in summary form here for purposes of providing a complete response. In addition to the arguments presented above, with respect to claims 1, 4 and 7, the Office Action fails to (1) identify multiple actuators; (2) identify a force applied by the actuators; (3) identify any structure upon which the force is applied; (4) recite a passage in Abelow that teaches that an actuator controller is responsive to price information to control an applied force by the actuator on the structure;

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and (5) recite a passage in Abelow that teaches that price information is conveyed to the actuator controllers by analog fluctuations in an electrical characteristic of the marketwire as recited in applicants claims. Further with respect to claim 4, the Office Action fails to recite a passage in Abelow that (1) identifies a mobile structure, and (2) teaches that an actuator controller is responsive to price information to control an applied force by the actuator to collectively promote movement of a structure from a first position to a second position. Further with respect to claim 7, the Office Action fails to recite a passage in Abelow that teaches that an actuator controller is responsive to price information to control an applied force by the actuator to collectively counter movement of a structure from a first position to a second position. The Examiner is referred to the details of the December 2003 Reply where passages from Abelow are quoted to show that they have no mention or suggestion of the above-referenced claim limitations.

4. No prima facie case of anticipation has been presented for any of the dependent claims.

As noted in the August 2003 Reply, the Office Action does not recite the specific portions of Abelow that teach each and every one of the claim limitations of the dependent claim limitations that might form the basis for allowable subject matter. In particular, the Office Action fails to show where the Abelow reference teaches the limitations of the air jets of claim 11 or the robotic arm of claim 12, or that the analog fluctuations in the electrical characteristic of the marketwire are voltage changes, as recited in claims 2, 5 and 8, or that the analog fluctuations in the electrical characteristic of the marketwire are current changes, as recited in claims 3, 6 and 9. With respect to claim 15, Abelow does not teach that operation of the actuators and the sensors is a function of the demand and supply levels seeking equilibrium.

Applicants believe that each of the dependent claims indicates allowable subject matter, and respectfully requests that the Examiner provide, in the next

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communication, specific passages where Abelow teaches each of the limitations in these claims.

#### Reconsideration Requested

For all of the foregoing reasons it is believed that no *prima facie* case of the anticipation under 35 USC 102(b) of independent claims 1, 4, 7 and 13 has been made, the rejections of the claims raised in the Office Action dated July 14, 2005 must be withdrawn and the present application is believed to be in condition for allowance. Insofar as claims 2 - 3, 5 - 6, 8 - 9, 11 - 12 and 14 are concerned, these claims all include the limitations of, and depend from their respective independent and now presumably allowable claims 1, 4 and 7. For this reason and because the claims contain additional limitations, it is believed that the rejection under 35 USC 102(b) must be withdrawn and these claims are also in a condition for allowance.

It is respectfully requested that this application be reconsidered, that these claims be allowed, and that this case be passed to issue.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he is hereby authorized to call Applicant's attorney, Nola Mae McBain, at Telephone Number (650) 812-4264, Palo Alto, California.

Respectfully submitted,



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Date: October 18, 2005